BOMBAY ACT No. XLVII OF 1953.[1]

[THE BOMBAY SALES OF INTOXICANTS TAXATION ACT, 1953.]

[*23rd July 1953*]

Amended by Bom. 52 of 1953.
" " " 21 of 1954.

An Act to provide for the levy of a tax on the sales of intoxicants in the State of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sales of intoxicants in the State of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales of Intoxicants Taxation Act, 1953.

(*2*) It shall extend to the whole of the State of Bombay.

[2][(*3*) This section shall come into force at once. The State Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force in respect of such intoxicants specified in column 1 of the Schedule and on such date as may be specified in the notification.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " asava or arishta " means a medicinal preparation in liquid form which contains alcohol generated by a process of fermentation and which is prepared in accordance with the Ayurvedic system of medicine;

Bom. III of 1953.

(*2*) " Collector " means the Collector of Sales Tax appointed under the Bombay Sales Tax Act, 1953;

(*3*) " country liquor " means all liquor, other than foreign liquor, produced or manufactured in India;

(*4*) " duty paid foreign liquor " means foreign liquor on which,—

XXXII of 1934. VIII of 1878.

(*i*) duty leviable under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878, or

Bom. XXV of 1949.

(*ii*) the excise or countervailing duty under the Bombay Prohibition Act, 1949,

has been paid and includes foreign liquor which is exempted from such duty;

(*5*) " fermented liquor " means ale, beer, milk stout, stout (porter) and cider and such other fermented liquor which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*6*) " foreign liquor " means duty-paid potable foreign liquor brought into India by sea, air or land and includes spirits, wines and fermented liquors :

Provided that the State Government may, by notification in the *Official Gazette*, declare that any specified kind of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor;

(*7*) " hemp drugs " means ganja and bhang;

(*8*) " intoxicant " means foreign liquor, country liquor, spirituous medicinal preparation, non-potable liquor, opium and hemp drugs;

(*9*) " licence " means a licence granted or renewed under this Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, p. 319.
[2] This sub-section was substituted for the original by Bom. 52 of 1953, s. 2.

(*10*) "medicated or tonic wine" means a mixture or compound of any wine with medicinal substances, whether the wine is fortified with spirit or not and which is a "drug" as defined in the Drugs Act, 1940; XXII of 1940.

(*11*) "non-potable liquor" means,—

(*a*) rectified spirit,

(*b*) denatured spirit,

(*c*) methyl alcohol,

(*d*) higher alcohols, that is, amyl alcohol, butyl alcohol, capryl alcohol, propyl alcohol and fusel oil,

(*e*) any other non-potable liquor which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*12*) "opium" means,—

(*a*) the capsules of poppy (*Papaver Somniforum L.*),

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport, and

(*c*) any mixture with or without neutral materials of any of the above forms of opium;

(*13*) "prescribed" means prescribed by rules;

(*14*) "rules" means rules made under this Act;

(*15*) "sale" means a sale of intoxicants made within the State of Bombay for cash or deferred payment or other valuable consideration and includes any supply by a society or club or an association to its members on payment of price or on fees or subscription; the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly;

Explanation.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930, the sale of any intoxicants which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State shall be deemed for the purposes of this Act to have taken place in the said State, notwithstanding the fact that the property in the intoxicants has by reason of such sale, passed in another State. III of 1930.

(*16*) "Schedule" means the Schedule appended to this Act;

(*17*) "spirits" means brandy, whisky, rum, gin, liqueurs and milk punch and such other spirits which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*18*) "spirituous medicinal preparation" means any medicinal preparation in liquid form containing alcohol and includes a medicated or tonic wine, an Asava or Arishta;

(*19*) "State" means the State of Bombay;

(*20*) "warehouse" means any place where an intoxicant is manufactured, stored or kept for purposes other than private consumption;

Production and inspection of accounts and documents and search of premises.

11. (*1*) The Collector may, for the purposes of this Act, at all reasonable times,—

(*a*) require any person, to whom sub-section (*1*) of section 6 applies, to produce before him accounts, registers or other documents or to furnish any other information, or

(*b*) inspect the accounts, registers and other documents and the stocks of any intoxicants stored or kept in any shop, warehouse or place of business of any such person, or

(*c*) enter and search any building, vessel, vehicle or place in which he has reason to believe that an intoxicant is stored or kept for the purpose of its sale.

(*2*) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

Searches how made.

12. All searches made under section 11 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Power of investigation.

13. (*1*) The Collector and any person appointed to assist him who is empowered in this behalf by the State Government shall have the power to investigate all offences punishable under this Act.

(*2*) The Collector and every person so empowered shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. V of 1898.

Penalty for contraventions or requirements under various provisions of the Act.

14. [1]*Whoever,—

(*a*) contravenes the provisions of section 8, or

(*b*) fails, without sufficient cause, to keep or maintain accounts or to submit any statement as required by section 9 or knowingly keeps or maintains false accounts or submits false statement, or

(*c*) fails to comply with any requirement made of him under sub-section (*1*) of section 11, or

(*d*) knowingly produces false accounts, registers or documents, or knowingly furnishes false information, or

(*e*) obstructs any officer making an inspection, a search or a seizure under section 11, or

(*f*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*e*) of this sub-section,

shall, in addition to the recovery of any tax that may be due from him, on conviction, be punished with simple imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both; and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

[1] The brackets and figure "(*1*)" were deleted by Bom. 21 of 1954, First Schedule.

Offences to be bailable.

15. All offences punishable under this Act shall be bailable.

Jurisdiction to try offences.

16. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

Power to compound offences.

17. (*1*) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed,—

(*i*) a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, or

(*ii*) one thousand rupees,

whichever is greater.

(*2*) On the payment of such sum to the Collector, the accused person shall be discharged and no further proceedings shall be taken against such person in respect of such offence.

Delegation of power by Collector.

18. Subject to the general or special orders of the State Government, the Collector may delegate any of the powers conferred upon him by or under this Act or the rules framed thereunder to any person appointed to assist him under the Bombay Sales Tax Act, 1953, not below the rank of a Sales Tax Officer (Junior). Bom. III of 1953.

Licence fee and other dues to be recoverable as arrears of land revenue.

19. All sums payable as taxes, fees or penalties under section 3, 4 or 7 shall be recoverable as arrears of land revenue.

Officers to be public servants.

20. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of person acting in good faith and limitation of suits and prosecutions.

21. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any officer of Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against the State and no prosecution or suit shall be instituted against any officer of Government in respect of anything done or intended to be done, under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

22. (*1*) Within sixty days of the making of any order under this Act, other than an order made by the Collector, any person aggrieved by such order may, in the prescribed manner, appeal to the prescribed authority against such order.

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-sections (*3*) and (*4*), be final.

(*3*) Subject to such rules as may be made in this behalf and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person to whom he has delegated any of his powers under section 18 ;

The Bombay Nurses, Midwives and Health Visitors Registration Act, 1935 (Bom. VII of 1935), at pages 1949-1958 has been repealed by the Bombay Nurses, Midwives and Health Visitors Act, 1954 (Bom. XIV of 1954), section 33.